

US PATENT & TRADEMARK OFFICE



3 0402 00265 7254

PTOMAIN

Reference

PATENT LAWS

T
223
T1
1867

SCIENTIFIC AND TECHNICAL



INFORMATION CENTER

**BROOKHAVEN BINDERY**

000256

PH. 608-781-0850 ext. 222

2004 Kramer St.

La Crosse, WI 54603

Customer **U.S. PATENT & TRADEMARK OFFICE**Cust. No. **2076**RUB NO. **S2**Lot No. **91-9-17-03**SIZE **9 1/8** Lines **NO**P.O. No. **UP0182**COLOR **FBMaroon** *Black* |**Total****PATENT LAWS**

Over 2 1/2

Collating

Stubbing **H.C.**

Filling

SPECIAL INSTRUCTIONS**TARGET****FRT.6 1/2****CALL #'S****T****223****T1****1867****Number of vols. 3**

Notify

Deliver

Mail ☒

Published
by
Brookhaven Press
www.brookhavenpress.com

Digital Production
by
Northern Micrographics, Inc.
2004 Kramer Street
LaCrosse, Wisconsin 54602

Printed on Acid-free Paper
Digital Reprint Edition

2003
608-781-0850
www.normicro.com

1882

PATENT LAWS.

INDEX.

	Page.	Sec.
Actions cognizable in circuit courts of the United States, &c.....	15	17
Additional improvements.....	13	13
Original claims subject to re-examination.....	20	8
Do.....do.....repealed.....	36	9
Affirmation.....	9	6
Do.....	22	13
Agents for the reception and transmission of models to be appointed.....	21	10
Repealed.....	36	6
Agricultural statistics.....	23	9
Do.....do.....	30	1
Do.....do.....	31	1
Do.....do.....	31	1
Do.....do.....	32	1
Do.....do.....	32	1
Do.....do.....	39	1
Antedate of patents authorized.....	11	8
Appeal from decision of Commissioner.....	9	7
Do.....do.....	24	11
Do.....do.....	25	12
Do.....do.....	28	1
In case of interfering applications.....	11	8
Do.....do.....	24	10
Appeal to Examiners-in-chief.....	1	40
Appeal from the decision of circuit courts to the Supreme Court.....	34	1
Application for patents, how and by whom made.....	9	6
Do.....do.....	12	10
Do.....do.....	36	10
Appropriations out of the patent fund.....	22	3
Do.....do.....	23	4
Do.....do.....	23	5
Chief justice.....	25	13
Assistant judges.....	29	2
Assistant judges.....	28	1
Assignments—patents assignable.....	12	11
Deeds, &c., to be recorded.....	19	6
Executed and recorded prior to December 15, 1836, to be recorded anew.....	17	1
Assignments—not so recorded not to be received as evidence.....	18	2
Fee for recording.....	12	11
Do.....	22	28
Do.....	23	8

Assignments—fee for recording.....	36	10
Board of examiners to be appointed in cases of appeal.....	9	7
Repealed.....	24	11
Caveats.....	12	12
Do.....	36	9
Chief clerk, how appointed, salary, his duties.....	7	2
Salary.....	35	4
Required to take oath and give bonds.....	8	3
Chief justice, appeal to.....	24	11
Salary.....	25	13
Repealed.....	28	1
Clerks, how appointed, interdicted from acquiring any interest in patents.....	7	2
Required to take oath.....	8	5
Temporary and other, authorized to be appointed.....	21	11
Do.....do.....do.....	22	2
Do.....do.....do.....	28	3
Commissioner of Patents, how appointed, his duties, compensation.....	7	1
Interdiction from acquiring any interest in patents.....	7	2
Required to take oath and give bonds.....	8	3
Shall cause a seal to be made.....	8	4
Required to lay before Congress a statement of the receipts and expenditures of the office.....	22	14
Copies of papers destroyed December 15, 1836, which have been restored, to be evidence in any judicial court in the United States, &c.....	18	2
Of new patents issued for those lost or destroyed on or before December 15, 1836, to be admissible as evidence.....	18	3
Of papers, &c., and drawings, fees for same.....	8	4
Copyright works, transferred from the Department of State.....	32	8
Appropriation for.....	33	1
Do.....	33	1
Do.....	39	1
Do.....	40	1
Courts may render judgment for a sum not exceeding three times the amount of actual damages.....	13	14
Courts, circuit, appeal from the decision of, to the Supreme Court.....	34	1
Do.....do.....	15	17
Defendant may plead the general issue, &c.....	14	15
Department of the Interior.....	28	2
Designs.....	25	3
Do.....	37	11
Digest of Patents authorized to be published.....	22	3
Disbursing clerk.....	28	1
Disclaimer.....	20	7
Do.....	20	8
Do.....	21	9
Draughtsman, how appointed, his salary.....	7	2
Do.....do.....do.....	29	1
Drawings, fees for copies of.....	8	4
Required in applications.....	9	6
Duplicates required.....	20	6
Printing.....	38	14

	Page.	Sec.
Evidence in contested cases.....	25	12
Do.....	34	1
Examinations of alleged inventions to be made, proceedings thereon.....	9	7
Examiners, board of.....	10	7
Examiners-in-chief, how appointed.....	35	2
Examiners, how appointed.....	7	2
Do.....do.....	21	11
Do.....do.....	27	1
Do.....do.....	30	10
Do.....do.....	31	9
Do.....do.....	36	7
Do.....do.....	41	1
Assistants.....	22	1
Do.....	27	1
Do.....	29	3
Do.....	30	10
Do.....	31	9
Do.....	30	25
Do.....	36	7
Do.....	41	1
Extensions, manner of proceeding.....	15	18
Do.....do.....	27	1
Do.....do.....	38	16
Fees for copies of drawings and papers.....	8	4
Do.....do.....	21	11
For recording assignments.....	12	11
Do.....do.....	23	8
Do.....do.....	27	2
Do.....do.....	37	10
On applications for patents.....	11	9
Do.....do.....	36	10
On filing a caveat.....	12	12
Do.....	36	9, 10
On reissues.....	13	13
Do.....	37	10
On additional improvements.....	13	13
Do.....	36	9
On extension.....	15	18
Do.....	37	10
On appeals.....	24	11
Do...to Examiners-in-chief.....	1	40
Do.....	36	10
On reissue for every additional patent.....	19	5
Do.....	37	10
For designs.....	25	3
Do.....	37	11
Fees for disclaimer.....	20	7
How payable.....	27	15
Paid in by mistake.....	25	1
Foreign patents, date of, &c.....	23	6
Franking privilege.....	7	1
Infringing the rights of patentees.....	26	5

Interfering applications.....	11	8
Remedy by bill in equity.....	15	16
Inventions may be sold before patents therefor are granted.....	23	7
Library for the Patent Office.....	16	19
Librarian.....	29	1
Machinist, how appointed, his salary.....	7	2
Messenger.....	7	2
Models in applications.....	9	6
In rejected applications.....	35	5
To be classified.....	16	20
Duplicates of those lost or destroyed to be procured.....	18	4
Money paid by mistake.....	25	1
Oath.....	9	6
Do.....	26	4
Renewal.....	10	7
Repealed.....	39	1
Patents, how issued; to be signed by the Secretary of the Interior and Commissioner of Patents; specifications and drawings to be recorded; for what term the patent shall be granted.....	8	5
Commissioner, &c., of, interdicted from acquiring interest in.....	7	2
Patents issued to executors, administrators, &c., in case of the decease of the inventor.....	12	10
To be assignable.....	12	11
Issued prior to December 15, 1836, to be recorded anew.....	17	1
Do.....do.....do.....	25	2
Not so recorded not to be received as evidence.....	18	2
New patents to be issued for those lost or destroyed on or before December 15, 1836.....	18	3
May be issued to assignees.....	19	6
To be marked.....	26	6
Do.....	38	13
Date.....	39	3
Patent fund.....	12	9
All moneys received for patents, &c., to be carried to the credit of.....	22	14
Penalty for infringing the rights of patentees by marking, &c.....	26	5
For neglect in marking patented articles.....	26	6
Do.....do.....	38	13
Printing specifications and drawings.....	38	14
Reissues.....	13	13
Several patents may be granted on reissues.....	19	5
Original claim subject to revision and restriction.....	20	8
Repeal of previous acts.....	17	21
Report of Patent Office.....	22	14
Salaries, reduced, to be repaid.....	39	2
Seal to be provided.....	8	4
Specification.....	9	6
Printing.....	36	8
Do.....	38	14
Specimens in applications.....	9	6
Withdrawal, \$20 to be refunded.....	10	7
Two-thirds fees returnable to foreigners.....	21	12
Repealed.....	36	9

PATENT LAWS.

AN ACT to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established and attached to the Department of State* an office, to be denominated the Patent Office, the chief officer of which shall be called the Commissioner of Patents, to be appointed by the President, by and with the advice and consent of the Senate, whose duty it shall be, under the direction of the Secretary of State, to superintend, execute, and perform all such acts and things touching and respecting the granting and issuing of patents for new and useful discoveries, inventions, and improvements, as are herein provided for, or shall hereafter be, by law, directed to be done and performed, and shall have charge and custody of all the books, records, papers, models, machines, and all other things belonging to said office. And said Commissioner shall receive the same compensation† as is allowed by law to the Commissioner of the Indian Department, and shall be entitled to send and receive letters and packages by mail, relating to the business of the office, free of postage.‡

SEC. 2. *And be it further enacted,* That there shall be in said office an inferior officer, to be appointed by the said principal officer, with the approval of the Secretary of State, to receive an annual salary of seventeen hundred dollars,§ and to be called the chief clerk of the Patent Office, who, in all cases during the necessary absence of the Commissioner or when the said principal office shall become vacant, shall have the charge and custody of the seal, and of the records, books, papers, machines, models, and all other things belonging to the said office, and shall perform the duties of Commissioner during such vacancy. And the said Commissioner may also, with like approval, appoint an examining clerk, at an annual salary of fifteen hundred dollars; two other clerks, at twelve hundred dollars each, one of whom shall be a competent draughtsman; one other clerk, at one thousand dollars; a machinist, at twelve hundred and fifty dollars; and a messenger at seven hundred dollars.|| And said Commis-

* Now attached to the Department of the Interior.—See section 2, page 29.

† \$3,000.—See section 4, page 35.—\$4,500.

‡ Franking privilege annulled by the act entitled "An act to reduce the rates of postage," &c., approved March 3, 1845; and restored by the act entitled "An act to establish certain post routes, and for other purposes," approved March 3, 1847; and the act approved April 27, 1848.—See section 4, page 25.

§ \$2,500.—See section 4, page 35.

|| See section 2, page 35, and section 7, page 36.

sioner, clerks, and every other person appointed and employed in said office, shall be disqualified and interdicted from acquiring or taking, except by inheritance, during the period for which they shall hold their appointments respectively, any right or interest, directly or indirectly, in any patent for an invention or discovery which has been, or may hereafter be, granted.

SEC. 3. *And be it further enacted*, That the said principal officer, and every other person to be appointed in the said office, shall, before he enters upon the duties of his office or appointment, make oath or affirmation truly and faithfully to execute the trust committed to him. And the said Commissioner and the chief clerk shall also, before entering upon their duties, severally give bonds, with sureties, to the Treasurer of the United States; the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, with condition to render a true and faithful account to him or his successor in office, quarterly, of all moneys which shall be by them respectively received for duties on patents, and for copies of records and drawings, and all other moneys received by virtue of said office.

SEC. 4. *And be it further enacted*, That the said Commissioner shall cause a seal to be made and provided for the said office, with such device as the President of the United States shall approve; and copies of any records, books, papers, or drawings, belonging to the said office, under the signature of the said Commissioner, or, when the office shall be vacant, under the signature of the chief clerk, with the said seal affixed, shall be competent evidence in all cases in which the original records, books, papers, or drawings could be evidence. And any person making application therefor may have certified copies of the records, drawings, and other papers deposited in said office, on paying for the written copies the sum of ten cents for every page of one hundred words; and for copies of drawings, the reasonable expenses of making the same.

SEC. 5. *And be it further enacted*. That all patents issuing from said office shall be issued in the name of the United States, and under the seal of said office, and be signed by the Secretary of State,* and countersigned by the Commissioner of said office, and shall be recorded, together with the descriptions, specifications, and drawings, in the said office, in books to be kept for that purpose. Every such patent shall contain a short description or title of the invention or discovery, correctly indicating its nature and design, and in its terms grant to the applicant or applicants, his or their heirs, administrators, executors, or assigns, for a term not exceeding fourteen years,† the full and exclusive right and liberty of making, using, and vending to others to be used, the said invention or discovery, referring to the specifications for the particulars thereof, a copy of which shall be annexed to the patent, specifying what the patentee claims as his invention or discovery.

* Secretary of the Interior.—See section 2, page 28.

† Seventeen years.—See section 16, page 38.

SEC. 6. *And be it further enacted,* That any person or persons having discovered or invented any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement on any art, machine, manufacture, or composition of matter, not known or used by others before his or their discovery or invention thereof, and not at the time of his application for a patent in public use or on sale, with his consent or allowance, as the inventor or discoverer, and shall desire to obtain an exclusive property therein, may make application, in writing, to the Commissioner of Patents, expressing such desire; and the Commissioner, on due proceedings had, may grant a patent therefor. But before any inventor shall receive a patent for any such new invention or discovery, he shall deliver a written description of his invention or discovery, and of the manner and process of making, constructing, using, and compounding the same, in such full, clear, and exact terms, avoiding unnecessary prolixity, as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of any machine, he shall fully explain the principle, and the several modes in which he has contemplated the application of that principle or character by which it may be distinguished from other inventions; and shall particularly specify and point out the part, improvement, or combination which he claims as his own invention or discovery. He shall, furthermore, accompany the whole with a drawing or drawings, and written references, where the nature of the case admits of drawings; or with specimens of ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention or discovery is of a composition of matter; which descriptions and drawings, signed by the inventor, and attested by two witnesses, shall be filed in the Patent Office; and he shall, moreover, furnish a model of his invention, in all cases which admit of a representation by model, of a convenient size to exhibit advantageously its several parts. The applicant shall make oath* or affirmation that he does verily believe that he is the original and first inventor or discoverer of the art, machine, composition, or improvement for which he solicits a patent; and that he does not know or believe that the same was ever before known or used; and also of what country he is a citizen; which oath or affirmation may be made before any person authorized by law to administer oaths.

SEC. 7. *And be it further enacted,* That on the filing of any such application, description, and specification, and the payment of the duty hereinafter provided,† the Commissioner shall make, or cause to be made, an examination of the alleged new invention or discovery; and if, on any such examination, it shall not appear to the Commissioner that the same had been invented or discovered by any other person in this country, prior to the alleged invention or discovery thereof by the applicant, or that it had been patented or

* See section 4, page 26.

† See section 10, page 36.

described in any printed publication in this or any foreign country, or had been in public use or on sale, with the applicant's consent or allowance, prior to the application, if the Commissioner shall deem it to be sufficiently useful and important, it shall be his duty to issue a patent therefor. But whenever, on such examination, it shall appear to the Commissioner that the applicant was not the original and first inventor or discoverer thereof, or that any part of that which is claimed as new had before been invented or discovered, or patented or described in any printed publication in this or any foreign country as aforesaid, or that the description is defective and insufficient, he shall notify the applicant thereof, giving him briefly such information and references as may be useful in judging of the propriety of renewing his application, or of altering his specification to embrace only that part of the invention or discovery which is new. In every such case, if the applicant shall elect to withdraw his application, relinquishing his claim to the model, he shall be entitled to receive back twenty dollars,* part of the duty required by this act, on filing a notice in writing of such election in the Patent Office, a copy of which, certified by the Commissioner, shall be sufficient warrant to the Treasurer for paying back to the said applicant the said sum of twenty dollars. But if the applicant in such case shall persist in his claim for a patent, with or without any alteration of his specification, he shall be required to make oath or affirmation anew† in manner as aforesaid; and if the specification and claim shall not have been so modified as, in the opinion of the Commissioner, shall entitle the applicant to a patent, he may, on appeal, and upon request in writing, have the decision of a board of examiners,‡ to be composed of three disinterested persons, who shall be appointed for that purpose by the Secretary of State, one of whom, at least, to be selected, if practicable and convenient, for his knowledge and skill in the particular art, manufacture, or branch of science to which the alleged invention appertains, who shall be under oath or affirmation for the faithful and impartial performance of the duty imposed upon them by said appointment. Said board shall be furnished with a certificate in writing, with the opinion and decision of the Commissioner, stating the particular grounds of his objection and the part or parts of the invention which he considers as not entitled to be patented, and the said board shall give reasonable notice to the applicant, as well as to the Commissioner, of the time and place of their meeting, that they may have an opportunity of furnishing them with such facts and evidence as they may deem necessary to a just decision; and it shall be the duty of the Commissioner to furnish to the board of examiners such information as he may possess relative to the matter under their consideration. And on an examination and consideration of the matter by such board, it shall be in their power, or of a majority of them, to reverse the decision of the Commissioner, either

* See section 12, page 13. Repealed.—See section 9, page 36.

† Repealed.—See section 1, page 39.

‡ Repealed.—See section 11, page 24, and section 2, page 35.

in whole or in part; and their opinion being certified to the Commissioner, he shall be governed thereby in the further proceedings to be had on such application: *Provided, however,* That before a board shall be instituted in any such case, the applicant shall pay to the credit of the treasury, as provided in the ninth section of this act, the sum of twenty-five dollars; and each of said persons so appointed shall be entitled to receive for his services, in each case, a sum not exceeding ten dollars, to be determined and paid by the Commissioner out of any moneys in his hands, which shall be in full compensation to the persons who may be so appointed for their examination and certificate as aforesaid.

SEC. 8. *And be it further enacted,* That whenever an application shall be made for a patent; which, in the opinion of the Commissioner, would interfere with any other patent for which an application may be pending, or with any unexpired patent which shall have been granted, it shall be the duty of the Commissioner to give notice thereof to such applicants or patentees, as the case may be; and if either shall be dissatisfied with the decision of the Commissioner on the question of priority of right or invention, on a hearing thereof, he may appeal from such decision, on the like terms and conditions as are provided in the preceding section of this act, and the like proceedings shall be had, to determine which, or whether either, of the applicants is entitled to receive a patent as prayed for. But nothing in this act contained shall be construed to deprive an original and true inventor of the right to a patent for his invention by reason of his having previously taken out letters patent therefor in a foreign country, and the same having been published at any time within six months next preceding the filing of his specification and drawings. And whenever the applicant shall request it, the patent shall take date from the time of filing of the specifications and drawings; not however, exceeding six months prior to the actual issuing of the patent; and on like request, and the payment of the duty herein required,* by any applicant, his specification and drawings shall be filed in the secret archives of the office until he shall furnish the model and patent be issued, not exceeding the term of one year†—the applicant being entitled to notice of interfering application.

SEC. 9. *And be it further enacted,* That before any application for a patent shall be considered by the Commissioner as aforesaid, the applicant shall pay into the treasury of the United States, or into the Patent Office, or into any of the deposit banks,‡ to the credit of the treasury, if he be a citizen of the United States or an alien, and shall have been resident in the United States for one year next preceding, and shall have made oath of his intention to become a citizen thereof, the sum of thirty dollars; if a subject of the King of Great Britain, the sum of five hundred dollars, and all other persons the sum of three hundred dollars;§ for which payment duplicate receipts shall be taken, one of which to be filed in the office of the

* See section 10, page 36.

† See section 12, page 37.

‡ See section 15, page 27.

§ Repealed.—See section 10, page 36.

Treasurer. And the moneys received into the treasury under this act shall constitute a fund for the payment of the salaries of the officers and clerks herein provided for, and all other expenses of the Patent Office, and to be called the patent fund.

SEC. 10. *And be it further enacted,* That where any person hath made, or shall have made, any new invention, discovery, or improvement, on account of which a patent might by virtue of this act be granted, and such person shall die before any patent shall be granted therefor, the right of applying for and obtaining such patent shall devolve on the executor or administrator of such person, in trust for the heirs-at-law of the deceased, in case he shall have died intestate; but if otherwise, then in trust for his devisees, in as full and ample manner, and under the same conditions, limitations, and restrictions as the same was held, or might have been claimed or enjoyed, by such person in his or her lifetime; and when application for a patent shall be made by such legal representatives, the oath or affirmation provided in the 6th section of this act shall be so varied as to be applicable to them.

SEC. 11. *And be it further enacted,* That every patent shall be assignable in law, either as to the whole interest or any undivided part thereof, by any instrument in writing; which assignment, and also every grant and conveyance of the exclusive right, under any patent, to make and use, and to grant to others to make and use, the thing patented within and throughout any specified part or portion of the United States, shall be recorded in the Patent Office within three months from the execution thereof, for which the assignee or grantee shall pay to the Commissioner the sum of three dollars.*

SEC. 12. *And be it further enacted,* That any citizen of the United States, or alien, who shall have been a resident of the United States one year next pre-eding, and shall have made oath of his intention to become a citizen thereof, and shall have invented any new art, machine, or improvement thereof, who shall desire further time to mature the same, may, on paying to the credit of the treasury, in manner as provided in the ninth section of this act, the sum of twenty dollars, file in the Patent Office a caveat setting forth the design and purpose thereof, and its principal and distinguishing characteristics, and praying protection of his right till he shall have matured his invention; which sum of twenty dollars, in case the person filing such caveat shall afterwards take out a patent for the invention therein mentioned, shall be considered a part of the sum herein required for the same. And such caveat shall be filed in the confidential archives of the office, and preserved in secrecy. And if application shall be made by any other person, within one year from the time of filing such caveat, for a patent of any invention with which it may in any respect interfere, it shall be the duty of the Commissioner to deposit the description, specifications, drawings, and model, in the confidential archives of the office, and to give notice (by mail) to the person filing the caveat of such application, *who shall within three months* after receiving the

* See section 8, page 23, and section 10, page 37.

notice, if he would avail himself of the benefit of his caveat, file his description, specifications, drawings, and model; and if, in the opinion of the Commissioner, the specifications of claim interfere with each other, like proceedings may be had in all respects as are in this act provided in the case of interfering applications; * *Provided, however,* That no opinion or decision of any board of examiners, under the provisions of this act, shall preclude any person interested in favor of or against the validity of any patent which has been or may hereafter be granted, from the right to contest the same in any judicial court, in any action in which its validity may come in question.

SEC. 13. *And be it further enacted,* That whenever any patent which has heretofore been granted, or which shall hereafter be granted, shall be inoperative or invalid, by reason of a defective or insufficient description or specification, or by reason of the patentee claiming in his specification, as his own invention, more than he had or shall have a right to claim as new, if the error has or shall have arisen by inadvertency, accident, or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Commissioner, upon the surrender to him of such patent, *and the payment of the further duty of fifteen dollars,* † to cause a new patent to be issued to the said inventor for the same invention for the residue of the period then unexpired for which the original patent was granted, in accordance with the patentee's corrected description and specification. And in case of his death or any assignment by him made of the original patent, a similar right shall vest in his executors, administrators, or assignees. And the patent so reissued, together with the corrected description and specifications, shall have the same effect and operation in law, on the trial of all actions hereafter commenced for causes subsequently accruing, as though the same had been originally filed in such corrected form before the issuing of the original patent. ‡ And whenever the original patentee shall be desirous of adding the description and specification of any new improvement of the original invention or discovery, which shall have been invented or discovered by him subsequent to the date of his patent, he may, like proceedings being had in all respects as in the case of the original applications, and on the payment of fifteen dollars, as hereinbefore provided, have the same annexed to the original description and specification; and the Commissioner shall certify, on the margin of annexed description and specification, the time of its being annexed and recorded; and the same shall hereafter have the same effect in law, to all intents and purposes, as though it had been embraced in the original description and specification. §

SEC. 14. *And be it further enacted,* That whenever, in any action for damages [for] making, using, or selling the thing whereof the exclusive right is secured by any patent heretofore granted, or by any patent which may hereafter be granted, a verdict shall be rendered for the plaintiff in such action, it shall be in the power of the court

* See sections 9 and 10, page 36.

† Thirty dollars.—See section 5, page 19, and section 10, page 37.

‡ See section 5, page 19.

§ See section 8, page 20. Repealed.—See section 9, page 36.

to render judgment of any sum above the amount found by such verdict as the actual damages sustained by the plaintiff, not exceeding three times the amount thereof, according to the circumstances of the case, with costs; and such damages may be recovered by action on the case, in any court of competent jurisdiction, to be brought in the name or names of the person or persons interested, whether as patentee, assignee, or as grantees of the exclusive right within and throughout a specified part of the United States.

SEC. 15. *And be it further enacted*, That the defendant in any such action shall be permitted to plead the general issue, and to give this act and any special matter in evidence, of which notice in writing may have been given to the plaintiff or his attorney, thirty days before trial, tending to prove that the description and specification filed by the plaintiff does not contain the whole truth relative to his invention or discovery, or that it contains more than is necessary to produce the described effect; which concealment or addition shall fully appear to have been made for the purpose of deceiving the public, or that the patentee was not the original and first inventor or discoverer of the thing patented, or of a substantial and material part thereof claimed as new, or that it has been described in some public work anterior to the supposed discovery thereof by the patentee, or had been in public use or on sale with the consent and allowance of the patentee before his application for a patent, or that he had surreptitiously or unjustly obtained the patent for that which was in fact invented or discovered by another, who was using reasonable diligence in adapting and perfecting the same; or that the patentee, if an alien at the time the patent was granted, had failed and neglected, for the space of eighteen months from the date of the patent, to put and continue on sale to the public, on reasonable terms, the invention or discovery for which the patent issued; and whenever the defendant relies in his defence on the fact of a previous invention, knowledge, or use of the thing patented, he shall state, in his notice of special matters, the names and places of residence of those whom he intends to prove to have possessed a prior knowledge of the thing, and where the same had been used; in either of which cases judgment shall be rendered for the defendant with costs: *Provided, however*, That whenever it shall satisfactorily appear that the patentee, at the time of making his application for the patent, believing himself to be the first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been before known or used in any foreign country; it not appearing that the same or any substantial part thereof had before been patented or described in any printed publication: *And provided, also*, That whenever the plaintiff shall fail to sustain his action on the ground that in his specification or claim is embraced more than that of which he was the first inventor, if it shall appear that the defendant had used or violated any part of the invention justly and truly specified and claimed as new, it shall be in the power of the court to adjudge and award, as to costs, as may appear to be just and equitable.*

* See section 9, page 21.

SEC. 16. *And be it further enacted*, That whenever there shall be two interfering patents, or whenever a patent or application shall have been refused on an adverse decision of a board of examiners,* on the ground that that patent applied for would interfere with an unexpired patent previously granted, any person interested in any such patent, either by assignment or otherwise in the one case. and any such applicant in the other case, may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties, and other due proceedings had, may adjudge and declare either the patents void in whole or in part, or inoperative and invalid in any particular part or portion of the United States, according to the interest which the parties to such suit may possess in the patent or the inventions patented; and may also adjudge that such applicant is entitled, according to the principles and provisions of this act, to have and receive a patent for his invention, as specified in his claim, or for any part thereof, as the fact of priority of right or invention shall, in any such case, be made to appear. And such adjudication, if it be in favor of the right of such applicant, shall authorize the Commissioner to issue such patent, on his filing a copy of the adjudication, and otherwise complying with the requisitions of this act: *Provided, however*, That no such judgment or adjudication shall affect the rights of any person, except the parties to the action, and those deriving title from or under them subsequent to the rendition of such judgment.

SEC. 17. *And be it further enacted*, That all actions, suits, controversies, and cases arising under any law of the United States, granting or confirming to inventors the exclusive right to their inventions or discoveries, shall be originally cognizable, as well in equity as at law, by the circuit courts of the United States, or any district court having the powers and jurisdiction of a circuit court; which courts shall have power, upon a bill in equity filed by any party aggrieved, in any such case, to grant injunctions according to the course and principles of courts of equity, to prevent the violation of the rights of any inventor as secured to him by any law of the United States, on such terms and conditions as said courts may deem reasonable: *Provided, however*, That from all judgments and decrees from any such court rendered in the premises a writ of error or appeal, as the case may require, shall lie to the Supreme Court of the United States, in the same manner and under the same circumstances as is now provided by law in other judgments and decrees of circuit courts, and in all other cases in which the court shall deem it reasonable to allow the same.

SEC. 18. *And be it further enacted*, That whenever any patentee of an invention or discovery shall desire an extension of his patent beyond the term of its limitation,† he may make application therefor, in writing, to the Commissioner of the Patent Office, setting forth the grounds thereof; and the Commissioner shall, on the applicant's

* See section 11, page 24.

† See section 12, page 38, and section 16, page 38.

paying the sum of forty dollars* to the credit of the treasury, as in the case of an original application for a patent, cause to be published in one or more of the principal newspapers in the city of Washington, and in such other paper or papers as he may deem proper, published in the section of country most interested adversely to the extension of the patent, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted.† And the Secretary of State, the Commissioner of the Patent Office, and the Solicitor of the Treasury shall constitute a board‡ to hear and decide upon the evidence produced before them, both for and against the extension, and shall sit for that purpose at the time and place designated in the published notice thereof. The patentee shall furnish to said board a statement, in writing, under oath, of the ascertained value of the invention, and of his receipts and expenditures, sufficiently in detail to exhibit a true and faithful account of loss and profit in any manner accruing to him from and by reason of said invention. And if, upon a hearing of the matter, it shall appear to the full and entire satisfaction of said board, having due regard to the public interest therein, that it is just and proper that the term of the patent should be extended, by reason of the patentee, without neglect or fault on his part, having failed to obtain, from the use and sale of his invention, a reasonable remuneration for the time, ingenuity, and expense, bestowed upon the same, and the introduction thereof into use, it shall be the duty of the Commissioner to renew and extend the patent, by making a certificate thereon of such extension, for the term of seven years from and after the expiration of the first term; which certificate, with a certificate of said board of their judgment and opinion as aforesaid, shall be entered on record in the Patent Office; and thereupon the said patent shall have the same effect in law as though it had been originally granted for the term of twenty-one years; and the benefit of such renewal shall extend to assignees and grantees of the right to use the thing patented, to the extent of their respective interests therein: *Provided, however,* That no extension of a patent shall be granted after the expiration of the term for which it was originally issued.

SEC. 19. *And be it further enacted,* That there shall be provided, for the use of said office, a library of scientific works and periodical publications, both foreign and American, calculated to facilitate the discharge of the duties hereby required of the chief officers therein, to be purchased under the direction of the Committee of the Library of Congress. And the sum of fifteen hundred dollars is hereby appropriated for that purpose, to be paid out of the patent fund.

SEC. 20. *And be it further enacted,* That it shall be the duty of the Commissioner to cause to be classified and arranged, in such rooms or galleries as may be provided for that purpose, in suitable cases, when necessary for their preservation, and in such manner as shall be conducive to a beneficial and favorable display thereof, the models and

* Fifty dollars on application, and fifty dollars when granted.—Sec section 10, page 37.

† See section 12, page 38.

‡ Repealed.—See section 1, page 27.

specimens of compositions and fabrics, and other manufactures and works of art, patented or unpatented, which have been, or shall hereafter be deposited in said office.* And said rooms or galleries shall be kept open during suitable hours for public inspection.

SEC. 21. *And be it further enacted*, That all acts and parts of acts heretofore passed on this subject be, and the same are hereby, repealed: *Provided, however*, That all actions and process in law or equity sued out prior to the passage of his act may be prosecuted to final judgment and execution, in the same manner as though this act had not been passed, excepting and saving the application to any such action of the provisions of the fourteenth and fifteenth sections of this act, so far as they may be applicable thereto: *And provided, also*, That all applications for petition for patents pending at the time of the passage of this act, in cases where the duty has been paid, shall be proceeded with and acted on in the same manner as though filed after the passage thereof.

Approved July 4, 1836.

AN ACT in addition to the act to promote the progress of science and useful arts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who may be in possession of, or in any way interested in, any patent for an invention, discovery, or improvement, issued prior to the fifteenth day of December, in the year of our Lord one thousand eight hundred and thirty-six, or in an assignment of any patent, or interest therein, executed and recorded prior to the said fifteenth day of December, may, without charge, on presentation or transmission thereof to the Commissioner of Patents, have the same recorded anew in the Patent Office, together with the descriptions, specifications of claim, and drawings annexed or belonging to the same; and it shall be the duty of the Commissioner to cause the same, or any authenticated copy of the original record, specification, or drawing, which he may obtain, to be transcribed and copied into books of record to be kept for that purpose; and wherever a drawing was not originally annexed to the patent, and referred to in the specification, any drawing produced as a delineation of the invention, being verified by oath in such manner as the Commissioner shall require, may be transmitted and placed on file, or copied as aforesaid, together with the certificate of the oath; or such drawings may be made in the office, under the direction of the Commissioner, in conformity with the specification. And it shall be the duty of the Commissioner to take such measures as may be advised and determined by the board of commissioners provided for in the fourth section of this act, to obtain the patents, specifications, and copies aforesaid, for the purpose of being so transcribed and recorded. And it shall be the duty of each of the several clerks of the

* See section 5, page 35.

judicial courts of the United States to transmit, as soon as may be, to the Commissioner of the Patent Office, a statement of all the authenticated copies of patents, descriptions, specifications, and drawings of inventions and discoveries made and extended prior to the aforesaid fifteenth day of December, which may be found on the files of his office; and also to make out and transmit to said Commissioner, for record as aforesaid, a certified copy of every such patent description, specification, or drawing, which shall be specially required by said Commissioner.

SEC. 2. *And be it further enacted*, That copies of such record and drawings, certified by the Commissioner, or, in his absence, by the chief clerk, shall be prima facie evidence of the particulars of the invention, and of the patent granted therefor, in any judicial court of the United States, in all cases where copies of the original record, or specifications and drawings, would be evidence, without proof of the loss of such originals; and no patent issued prior to the aforesaid fifteenth day of December shall, after the first day of June next, be received in evidence in any of the said courts in behalf of the patentee or other person who shall be in possession of the same, unless it shall have been so recorded anew, and a drawing of the invention, if separate from the patent, verified as aforesaid, deposited in the Patent Office; nor shall any written assignment of any such patent, executed and recorded prior to the said fifteenth day of December, be received in evidence in any of the said courts in behalf of the assignee or other person in possession thereof, until it shall have been so recorded anew.

SEC. 3. *And be it further enacted*, That whenever it shall appear to the Commissioner that any patent was destroyed by the burning of the Patent Office building on the aforesaid fifteenth day of December, or was otherwise lost prior thereto, it shall be his duty, on application therefor by the patentee or other person interested therein, to issue a new patent for the same invention or discovery, bearing the date of the original patent, with his certificate thereon that it was made and issued pursuant to the provisions of the third section of this act, and shall enter the same of record: *Provided, however*, That before such patent shall be issued, the applicant therefor shall deposit in the Patent Office a duplicate, as near as may be, of the original model, drawings, and descriptions, with specifications of the invention or discovery, verified by oath, as shall be required by the Commissioner, and such patent and copies of such drawings and descriptions, duly certified, shall be admissible as evidence in any judicial court of the United States, and shall protect the rights of the patentee, his administrators, heirs, and assigns, to the extent only in which they would have been protected by the original patent and specification.*

SEC. 4. *And be it further enacted*, That it shall be the duty of the Commissioner to procure a duplicate of such of the models destroyed by fire on the aforesaid fifteenth day of December as were

most valuable and interesting, and whose preservation would be important to the public, and such as would be necessary to facilitate the just discharge of the duties imposed by law on the Commissioner in issuing patents, and to protect the rights of the public and of patentees in patented inventions and improvements: *Provided*, That a duplicate of such models may be obtained at a reasonable expense: *And provided, also*, That the whole amount of expenditure for this purpose shall not exceed the sum of one hundred thousand dollars. And there shall be a temporary board of commissioners, to be composed of the Commissioner of the Patent Office and two other persons, to be appointed by the President, whose duty it shall be to consider and determine upon the best and most judicious mode of obtaining models of suitable construction; and, also, to consider and determine what models may be procured in pursuance of, and in accordance with, the provisions and limitations in this section contained. And said commissioners may make and establish all such regulations, terms, and conditions not inconsistent with law, as in their opinion may be proper and necessary to carry the provisions of this section into effect, according to its true intent.

SEC. 5. *And be it further enacted*, That whenever a patent shall be returned for correction and reissue, under the thirteenth section of the act to which this is additional, and the patentee shall desire several patents to be issued for distinct and separate parts of the thing patented, he shall first pay, in manner and in addition to the sum provided by that act, the sum of thirty dollars for each additional patent so to be issued.* *Provided, however*, That no patent made prior to the aforesaid fifteenth day of December shall be corrected and reissued until a duplicate of the model and drawing of the thing, as originally invented, verified by oath as shall be required by the Commissioner, shall be deposited in the Patent Office. Nor shall any addition of an improvement be made to any patent heretofore granted, nor any new patent be issued for an improvement made in any machine, manufacture, or process, to the original inventor, assignee, or possessor of a patent therefor, nor any disclaimer be admitted to record, until a duplicate model and drawing of the thing originally invented, verified as aforesaid, shall have been deposited in the Patent Office, if the Commissioner shall require the same; nor shall any patent be granted for an invention, improvement, or discovery, the model or drawing of which shall have been lost, until another model and drawing, if required by the Commissioner, shall in like manner be deposited in the Patent Office. And in all such cases, as well as in those which may arise under the third section of this act, the question of compensation for such models and drawings shall be subject to the judgment and decision of the commissioners provided for in the fourth section, under the same limitations and restrictions as are herein prescribed.

SEC. 6. *And be it further enacted*, That any patent hereafter to be issued may be made and issued to the assignee or assignees of the

inventor or discoverer, the assignment thereof being first entered of record, and the application therefor being duly made, and the specification duly sworn to by the inventor. And in all cases hereafter the applicant for a patent shall be held to furnish duplicate drawings, whenever the case admits of drawings, one of which to be deposited in the office, and the other to be annexed to the patent, and considered a part of the specification.

SEC. 7. *And be it further enacted*, That whenever any patentee shall have, through inadvertence, accident, or mistake, made his specification of claim too broad, claiming more than that of which he was the original or first inventor, some material and substantial part of the thing patented being truly and justly his own, any such patentee, his administrators, executors, and assigns, whether of the whole or of a sectional interest therein, may make disclaimer of such parts of the thing patented as the disclaimant shall not claim to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent; which disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office, on payment by the person disclaiming, in manner as other patent duties are required by law to be paid, of the sum of ten dollars.* And such disclaimer shall thereafter be taken and considered as part of the original specification, to the extent of the interest which shall be possessed in the patent or right secured thereby, by the disclaimant, and by those claiming by or under him, subsequent to the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing the same.

SEC. 8. *And be it further enacted*, That whenever application shall be made to the Commissioner for any addition of a newly-discovered improvement to be made to an existing patent,† or whenever a patent shall be returned for correction and reissue, the specification of claim annexed to every such patent shall be subject to revision and restriction, in the same manner as are original applications for patents; the Commissioner shall not add any such improvement to the patent in the one case, nor grant the reissue in the other case, until the applicant shall have entered a disclaimer, or altered his specification of claim in accordance with the decision of the Commissioner; and in all such cases the applicant, if dissatisfied with such decision, shall have the same remedy, and be entitled to the benefit of the same privileges and proceedings as are provided by law in the case of original applications for patents.

SEC. 9. *And be it further enacted*, (anything in the fifteenth section of the act to which this is additional to the contrary notwithstanding,) That whenever, by mistake, accident, or inadvertence, and without any willful default or intent to defraud or mislead the public, any patentee shall have, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the first and original

* See section 10, page 37.

† See section 9, page 36.

inventor, and shall have no legal or just right to claim the same, in every such case the patent shall be deemed good and valid for so much of the invention or discovery as shall be truly and bona fide his own: *Provided*, It shall be a material and substantial part of the thing patented, and be definitely distinguishable from the other parts so claimed without right as aforesaid. And every such patentee, his executors, administrators, and assigns, whether of a whole or of a sectional interest therein, shall be entitled to maintain a suit at law or in equity on such patent for any infringement of such part of the invention or discovery as shall be bona fide his own as aforesaid, notwithstanding the specification may embrace more than he shall have any legal right to claim. But in every such case in which a judgment or verdict shall be rendered for the plaintiff, he shall not be entitled to recover costs against the defendant, unless he shall have entered at the Patent Office, prior to the commencement of the suit, a disclaimer of all that part of the thing patented which was so claimed without right: *Provided, however*, That no person bringing any such suit shall be entitled to the benefits of the provisions contained in this section who shall have unreasonably neglected or delayed to enter at the Patent Office a disclaimer as aforesaid.

SEC. 10. *And be it further enacted*, That the Commissioner is hereby authorized and empowered to appoint agents in not exceeding twenty of the principal cities or towns of the United States as may best accommodate the different sections of the country, for the purpose of receiving and forwarding to the Patent Office all such models, specimens of ingredients, and manufactures as shall be intended to be patented or deposited therein, the transportation of the same to be chargeable to the patent fund.

SEC. 11. *And be it further enacted*, That instead of one examining clerk, as provided by the second section of the act to which this is additional, there shall be appointed, in manner therein provided, two examining clerks, each to receive an annual salary of fifteen hundred dollars; and also an additional copying clerk, at an annual salary of eight hundred dollars.† And the Commissioner is also authorized to employ, from time to time, as many temporary clerks as may be necessary to execute the copying and draughting required by the first section of this act, and to examine and compare the records with the originals, who shall receive not exceeding seven cents‡ for every page of one hundred words, and for drawings and comparisons of records with originals such reasonable compensation as shall be agreed upon or prescribed by the Commissioner.

SEC. 12. *And be it further enacted*, That whenever the application of any foreigner for a patent shall be rejected and withdrawn for want of novelty in the invention, pursuant to the seventh section of the act to which this is additional, the certificate thereof of the Commissioner shall be a sufficient warrant to the Treasurer to pay back to such applicant two-thirds of the duty he shall have paid into the treasury on account of such application.§

° Repealed.—See section 6, page 36

† See section 10, page 37.

‡ See section 7, page 36, and section 1, page 41.

§ See section 9 and 10, page 36.

SEC. 13. *And be it further enacted*, That in all cases in which an oath is required by this act, or by the act to which this is additional, if the person of whom it is required shall be conscientiously scrupulous of taking an oath, affirmation may be substituted therefor.

SEC. 14. *And be it further enacted*, That all moneys paid into the treasury of the United States for patents, and for fees for copies furnished by the Superintendent of the Patent Office prior to the passage of the act of which this is additional, shall be carried to the credit of the patent fund created by said act; and the moneys constituting said fund shall be, and the same are hereby, appropriated for the payment of the salaries of the officers and clerks provided by said act, and all other expenses of the Patent Office, including all the expenditures provided for by this act; and, also, for such other purposes as are or may be hereafter specially provided for by law. And the Commissioner is hereby authorized to draw upon such fund, from time to time, for such sums as shall be necessary to carry into effect the provisions of this act, governed, however, by the several limitations herein contained. And it shall be his duty to lay before Congress, in the month of January, annually, a detailed statement of the expenditures and payments by him made from said fund. And it shall also be his duty to lay before Congress, in the month of January, annually, a list of all patents which shall have been granted during the preceding year, designating, under proper heads, the subjects of such patents, and furnishing an alphabetical list of the patentees, with their places of residence; and he shall also furnish a list of all patents which shall have become public property during the same period, together with such other information of the state and condition of the Patent Office as may be useful to Congress or to the public.

Approved March 3, 1837.

A BILL in addition to "An act to promote the progress of the useful arts."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be appointed, in manner provided in the second section of the act to which this is additional, two assistant examiners, each to receive an annual salary of twelve hundred and fifty dollars.*

SEC. 2. *And be it further enacted*, That the Commissioner be authorized to employ temporary clerks to do any necessary transcribing, whenever the current business of the office requires it: *Provided, however*, That instead of a salary, a compensation shall be allowed at a rate not greater than is charged for copies now furnished by the office.

SEC. 3. *And be it further enacted*, That the Commissioner is hereby authorized to publish a classified and alphabetical list of all patents

* See section 7, page 36, and section 1, page 41.

† See section 4, page 2.

granted by the Patent Office previous to said publication, and retain one hundred copies for the Patent Office, and nine hundred copies to be deposited in the Library of Congress, for such distribution as may hereafter be directed; and that one thousand dollars, if necessary, be appropriated out of the patent fund, to defray the expense of the same.

SEC. 4. *And be it further enacted*, That the sum of three thousand six hundred and fifty-nine dollars and twenty-two cents be, and is hereby, appropriated from the patent fund, to pay for the use and occupation of rooms in the City Hall by the Patent Office.

SEC. 5. *And be it further enacted*, That the sum of one thousand dollars be appropriated from the patent fund, to be expended under the direction of the Commissioner, for the purchase of necessary books for the library of the Patent Office.

SEC. 6. *And be it further enacted*, That no person shall be debarred from receiving a patent for any invention or discovery, as provided in the act approved on the fourth day of July, one thousand eight hundred and thirty-six, to which this is additional, by reason of the same having been patented in a foreign country more than six months prior to his application: *Provided*, That the same shall not have been introduced into public and common use in the United States prior to the application for such patent: *And provided, also*, That in all cases every such patent shall be limited to the term of fourteen* years from the date of publication of such foreign letters patent.

SEC. 7. *And be it further enacted*, That every person or corporation who has, or shall have, purchased or constructed any newly-invented machine, manufacture, or composition of matter, prior to the application of the inventor or discoverer for a patent, shall be held to possess the right to use, and vend to others to be used, the specific machine, manufacture, or composition of matter so made or purchased, without liability therefor to the inventor, or any other person interested in such invention; and no patent shall be held to be invalid by reason of such purchase, sale, or use, prior to the application of a patent as aforesaid, except on proof of abandonment of such invention to the public, or that such purchase, sale, or prior use has been for more than two years prior to such application for a patent.

SEC. 8. *And be it further enacted*, That so much of the eleventh section of the above-recited act as requires the payment of three dollars to the Commissioner of Patents for recording any assignment, grant, or conveyances, of the whole or any part of the interest or right under any patent, be, and the same is hereby repealed; and all such assignments, grants, and conveyances, shall, in future, be recorded without any charge whatever.†

SEC. 9. *And be it further enacted*, That a sum of money, not exceeding one thousand dollars, be, and the same is hereby, appropriated, out of the patent fund, to be expended by the Commissioner of Patents in the collection of agricultural statistics, and for other

* Seventeen years.—See section 16, page 38.

† See section 10, page 36.

agricultural purposes; for which the said Commissioner shall account in his next annual report.

SEC. 10. *And be it further enacted*, That the provisions of the sixteenth section of the before-recited act shall extend to all cases where patents are refused for any reason whatever, either by the Commissioner of Patents or by the chief justice of the District of Columbia, upon appeals from the decision of said Commissioner, as well as where the same shall have been refused on account of, or by reason of, interference with a previously-existing patent; and in all cases where there is no opposing party a copy of the bill shall be served upon the Commissioner of Patents, when the whole of the expenses of the proceeding shall be paid by the applicant, whether the final decision shall be in his favor or otherwise.

SEC. 11. *And be it further enacted*, That in cases where an appeal is now allowed by law from the decision of the Commissioner of Patents to a board of examiners, provided for in the seventh section of the act of which this is additional, the party, instead thereof, shall have right to appeal to the chief justice* of the district court of the United States for the District of Columbia, by giving notice thereof to the Commissioner, and filing in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing, and also paying into the Patent Office, to the credit of the patent fund, the sum of twenty-five dollars. And it shall be the duty of said chief justice, on petition, to hear and determine all such appeals, and to revise such decisions in a summary way, on the evidence produced before the commissioners, at such early and convenient time as he may appoint, first notifying the Commissioner of the time and place of hearing, whose duty it shall be to give notice thereof to all parties who appear to be interested therein, in such manner as said judge shall prescribe. The Commissioner shall also lay before the said judge all the original papers and evidence in the case, together with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal, to which the revision shall be confined. And at the request of any party interested, or at the desire of the judge, the Commissioner and the examiners in the Patent Office may be examined, under oath, in explanation of the principles of the machine, or other thing, for which a patent in such case is prayed for. And it shall be the duty of the said judge, after a hearing of any such case, to return all the papers to the Commissioner, with a certificate of his proceedings and decision, which shall be entered of record in the Patent Office; and such decision, so certified, shall govern the further proceedings of the Commissioner in such case: *Provided, however*, That no opinion or decision of the judge in any such case shall preclude any person interested in favor or against the validity of any patent which has been, or may hereafter be, granted, from the right to contest the same in any judicial court, in any action in which its validity may come in question.

* See page 28, act approved 30th August, 1852.

SEC. 12. *And be it further enacted*, That the Commissioner of Patents shall have power to make all such regulations in respect to the taking of evidence to be used in contested cases before him as may be just and reasonable.* And so much of the act to which this is additional as provides for a board of examiners is hereby repealed.

SEC. 13. *And be it further enacted*, That there be paid annually, out of the patent fund, to the said chief justice, in consideration of the duties herein imposed, the sum of one hundred dollars.†

Approved March 3, 1839.

AN ACT in addition to an act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Treasurer of the United States be, and he hereby is, authorized to pay back, out of the patent fund, any sum or sums of money, to any person who shall have paid the same into the treasury, or to any receiver or depository to the credit of the Treasurer, as for fees accruing at the Patent Office through mistake, and which are not provided to be paid by existing laws, certificate thereof being made to the said Treasurer by the Commissioner of Patents.

SEC. 2. *And be it further enacted*, That the third section of the act of March, eighteen hundred and thirty-seven, which authorizes the renewing of patents lost prior to the fifteenth of December, eighteen hundred and thirty-six, is extended to patents granted prior to the said fifteenth day of December, though they may have been lost subsequently: *Provided, however*, The same shall not have been recorded anew under the provisions of said act.

SEC. 3. *And be it further enacted*, That any citizen or citizens, or alien or aliens, having resided one year in the United States, and taken the oath of his or their intention to become a citizen or citizens, who by his, her, or their own industry, genius, efforts, and expense, may have invented or produced any new and original design for a manufactured, whether of metal or other material or materials, or any new and original design for the printing of woollen, silk, cotton, or other fabrics, or any new and original design for a bust, statue, or bas relief, or composition in alto or basso relievo, or any new and original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material, or any new and useful pattern, or print, or picture, to be either worked into or worked on, or printed, or painted, or cast or otherwise fixed on any article of manufacture, or any new and original shape or configuration of any article of manufacture, not known or used by others before his, her, or their invention or production thereof, and prior to the time of his, her, or their application for a patent therefor, and who shall desire to obtain an exclusive property or right therein to make, use, and sell and vend the same, or copies of the same, to

* See section 1, page 34.

† Repealed.—See page 29, section 3 of act approved 30th August, 1853.

others, by them to be made, used, and sold, may make application, in writing, to the Commissioner of Patents, expressing such desire; and the Commissioner, on due proceedings had, may grant a patent therefor, as in the case now of application for a patent: *Provided*, That the fee in such cases, which by the now existing laws would be required of the particular applicant, shall be one-half the sum, and that the duration of said patent shall be seven years, and that all the regulations and provisions which now apply to the obtaining or protection of patents, not inconsistent with the provisions of this act, shall apply to applications under this section.*

SEC. 4. *And be it further enacted*, That the oath required for applicants for patents may be taken, when the applicant is not, for the time being, residing in the United States, before any minister plenipotentiary, chargé d'affaires, consul, or commercial agent holding commission under the government of the United States, or before any notary public of the foreign country in which such applicant may be.

SEC. 5. *And be it further enacted*, That if any person or persons shall paint, or print, or mould, cast, carve, or engrave, or stamp upon anything made, used, or sold by him, for the sole making or selling which he hath not, or shall not have, obtained letters patent, the name, or any imitation of the name of any other person who hath, or shall have, obtained letters patent for the sole making and vending of such thing, without consent of such patentee, or his assigns or legal representatives; or if any person, upon any such thing not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having the license or consent of such patentee, or his assigns or legal representatives, shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise make or affix the word "patent," or the words "letters patent," or the word "patentee," or any word or words of like kind, meaning, or import, with the view or intent of imitating or counterfeiting the stamp, mark, or other device of the patentee, or shall affix the same, or any word, stamp, or device of like import, on any unpatented article, for the purpose of deceiving the public, he, she, or they, so offending, shall be liable for such offence to a penalty of not less than one hundred dollars, with costs, to be recovered by action in any of the circuit courts of the United States, or in any of the district courts of the United States having the powers and jurisdiction of a circuit court; one-half of which penalty, as recovered, shall be paid to the patent fund, and the other half to any person who shall sue for the same.

SEC. 6. *And be it further enacted*, That all patentees and assignees of patents hereafter granted are hereby required to stamp, engrave, or cause to be stamped or engraved, on each article vended or offered for sale, the date of the patent; and if any person or persons, patentees or assignees, shall neglect to do so, he, she, or they shall be liable to the same penalty; to be recovered and disposed of in the manner specified in the foregoing fifth section of this act.†

Approved August 29, 1842.

* Repealed.—See section 11, page 37.

† Repealed.—See section 15, page 38.

SECTION 15 of the act entitled "An act to provide for the better organization of the treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," approved August 6, 1846.

And be it further enacted, That all marshals, district attorneys, and others having public money to pay to the United States, and all patentees wishing to make payment for patents to be issued, may pay all such moneys to the Treasurer of the United States, or to the treasurer of either of the mints in Philadelphia or New Orleans, to either of the other assistant treasurers, or to such other depositary constituted by this act as shall be designated by the Secretary of the Treasury, in other parts of the United States, to receive such payments and give receipts or certificates of deposit therefor.

AN ACT to provide additional examiners in the Patent Office, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be appointed, in the manner provided in the second section of the act entitled "An act to promote the progress of useful arts, and to repeal all acts or parts of acts heretofore made for that purpose," approved July fourth, eighteen hundred and thirty-six, two principal examiners and two assistant examiners, in addition to the number of examiners now employed in the Patent Office,* and that hereafter each of the principal examiners employed in the Patent Office shall receive an annual salary of twenty-five hundred dollars, and each of the assistant examiners an annual salary of fifteen hundred dollars: *Provided,* That the power to extend patents, now vested in the board composed of the Secretary of State, Commissioner of Patents, and Solicitor of the Treasury, by the eighteenth section of the act approved July fourth, eighteen hundred and thirty-six, respecting the Patent Office, shall hereafter be vested solely in the Commissioner of Patents; and when an application is made to him for the extension of a patent according to said eighteenth section, and sixty days' notice given thereof, he shall refer the case to the principal examiner having charge of the class of inventions to which said case belongs, who shall make a full report to said Commissioner of the said case, and particularly whether the invention or improvement secured in the patent was new and patentable when patented; and thereupon the said Commissioner shall grant or refuse the extension of said patent, upon the same principles and rules that have governed said board; but no patent shall be extended for a longer term than seven years.†

SEC. 2. *And be it further enacted,* That hereafter the Commissioner of Patents shall require a fee of one dollar for recording any assignment, grant, or conveyance of the whole or any part of the interest in letters patent, or power of attorney, or license to make or use the thing patented, when such instrument shall not exceed three

*See section 7, page 36.

† See section 16, page 38.

hundred words ; the sum of two dollars when it shall exceed three hundred and shall not exceed one thousand words, and the sum of three dollars if it shall exceed one thousand words ; which fees shall in all cases be paid in advance.

SEC. 3. *And be it further enacted*, That there shall be appointed, in manner aforesaid, two clerks, to be employed in copying and recording, and in other services in the Patent Office, who shall each be paid a salary of one thousand two hundred dollars per annum.

SEC. 4. *And be it further enacted*, That the Commissioner of Patents is hereby authorized to send by mail, free of postage, the annual reports of the Patent Office, in the same manner in which he is empowered to send letters and packages relative to the business of the Patent Office.

Approved May 27, 1848.

SECTION 2 of the act entitled "An act to establish the Home Department, and to provide for the Treasury Department an Assistant Secretary of the Treasury and a Commissioner of the Customs," approved March 3, 1849.

And be it further enacted, That the Secretary of the Interior shall exercise and perform all the acts of supervision and appeal in regard to the office of Commissioner of Patents now exercised by the Secretary of State ; and the said Secretary of the Interior shall sign all requisitions for the advance or payment of money out of the treasury, or estimates, or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the First or Fifth Auditor and First Comptroller of the Treasury.

SECTION 2 of the act entitled "An act making appropriations for the civil and diplomatic expenses of government," &c., approved March 3, 1861.

And be it further enacted, That there shall be appointed and paid, in the manner now provided by law, two principal examiners and two assistant examiners of patents, in addition to the examining force now employed in the Patent Office.*

AN ACT in addition to an act to promote the progress of the useful arts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That appeals provided for in the eleventh section of the act entitled "An act in addition to an act to promote the progress of the useful arts," approved March the third, eighteen hundred and thirty-nine, may also be made to either of the assistant judges of the circuit court of the District of Columbia ; and all the powers, duties, and responsibilities imposed

* See section 7, page 36 and page 41.

by the aforesaid act, and conferred upon the chief judge, are hereby imposed and conferred upon each of the said assistant judges.

SEC. 2. *And be it further enacted*, That in case appeal shall be made to the said chief judge, or to either of the said assistant judges, the Commissioner of Patents shall pay to such chief judge, or assistant judge, the sum of twenty-five dollars, required to be paid by the appellant into the Patent Office by the eleventh section of said act, on said appeal.

SEC. 3. *And be it further enacted*, That section thirteen of the aforesaid act, approved March the third, eighteen hundred and thirty-nine, is hereby repealed.

Approved August 30, 1852.

Extracts from the act entitled "An act making appropriations for the civil and diplomatic expenses of the government for the year ending the thirtieth of June, eighteen hundred and fifty-three, and for other purposes," approved August 31, 1852.

For the collection of agricultural statistics and purchase of seeds, to be paid out of the patent fund, five thousand dollars.

For compensation to the librarian of the Patent Office, twelve hundred dollars,* to be paid out of the patent fund.

For books of the library of the Patent Office, to be paid out of the patent fund, one thousand five hundred dollars.

For fitting up the library of the Patent Office, to be paid out of the patent fund, two thousand dollars.

For additional compensation to the disbursing clerk and draughtsman in the Patent Office, the sum of three hundred dollars each, to be paid out of the Patent Office fund; and that hereafter the disbursing clerk shall be required to give bond, with approved security, in the sum of five thousand dollars, conditioned for the faithful discharge of the duties of his office.

For compensation of two additional permanent clerks in the Patent Office, to be appointed by the Commissioner of Patents, at a salary of fourteen hundred dollars each, the sum of twenty-eight hundred dollars, to be paid out of the Patent Office fund.

Section 3d of the general appropriation bill of 3d March, 1853, provides for eight clerks of the second class, twelve (including six assistant examiners) of the third class, and one of the fourth class; and also provides for an increase of the salary of the chief clerk to two thousand dollars.†

Act of the 22d April, 1854, allows additional compensation to clerks, messengers, &c.

Section 1 of the deficiency bill of the 31st May, 1854, appropriates forty-five thousand dollars for furnishing the rooms of the new wing of the Patent Office building with furniture, and providing the saloons therein with cases for models.

The general appropriation bill of 4th August, 1854, appropriates

* \$1, 800.—See section 4, page 35.

† See sections 4 and 7, pages 35, 36.

two thousand nine hundred and eighty dollars to pay the keepers, &c., in the national gallery, and one hundred dollars for contingent expenses. Also provides for reimbursing to the patent fund sixteen thousand dollars.

Extracts from the general appropriation bill of March 3, 1855.

SEC. 1. For the preservation of the collections of the exploring expedition.

For compensation of keepers, watchmen, and laborers, two thousand nine hundred and eighty dollars.

For contingent expenses, two hundred dollars.

SEC. 10. *And be it further enacted*, That there shall be appointed and paid, in the manner now provided by law, four principal examiners and four assistant examiners of patents, in addition to the examining force now authorized by law to be so employed in the Patent Office; and should the necessities of the public service, in the estimation of the Commissioner of Patents, require any additional examining force to that herein provided, previous to the next session of Congress, there may also be appointed and paid in the manner now provided by law, in addition to the foregoing, not exceeding two principal and two assistant examiners, who shall not so continue to be employed subsequent to the expiration of said next session of Congress, without further provision of law.*

SEC. 20. For the reimbursement of the Patent Office fund for moneys heretofore paid out of appropriations of acts of Congress for seeds and the collection of agricultural statistics, forty thousand and seventy-eight dollars and seventy-eight cents, to be paid out of any moneys in the treasury not otherwise appropriated.

SEC. 25. *And be it further enacted*, That the first assistant examiners in the Patent Office shall be rated as of the fourth class of clerks, and the second assistant examiners, machinist, and librarian† as of the third class.

Deficiency bill of May 15, 1856.

For the collection of agricultural statistics, investigations for promoting agricultural and rural economy, and the procurement and distribution of cuttings and seeds, to be expended under the direction of the Commissioner of Patents, thirty thousand dollars.

* See section 7, page 36.

† See section 4, page 35.

AN ACT making appropriation for certain civil expenses, &c.—August 18, 1856.

SEC. 1. For the collection of agricultural statistics, investigations for promoting agricultural and rural economy, and the procurement and distribution of cuttings and seeds, seventy-five thousand dollars, to be expended under the direction of the Commissioner of Patents: *Provided*, That the Commissioner shall report to Congress the various [various] kinds and amounts of said [seeds] purchased and to be purchased under this appropriation, from whom and where obtained, and the cost of the same.

* * * * *

SEC. 9. *And be it further enacted*, That there shall be appointed and paid, in the manner now provided by law, two principal examiners and two assistant examiners, in addition to the examining force now authorized by law to be so employed in the Patent Office.*

SEC. 10. *And be it further enacted*, That the Commissioner of Patents is hereby authorized to pay those employed in the United States Patent Office from April first, eighteen hundred and fifty-four, until April first, eighteen hundred and fifty-five, as examiners and assistant examiners of patents, at the rates fixed by law for these respective grades: *Provided*, That the same be paid out of the Patent Office fund, and that the compensation thus paid shall not exceed that received by those duly enrolled as examiners and assistant examiners of patents for the same period.

AN ACT making appropriations for the legislative, &c., expenses.—August 18, 1856.

For the preservation of the collections of the exploring expedition, for compensation of keepers and watchmen therefor, and for laborers employed, at the rate of four hundred and eighty dollars per annum, per act fourth August, eighteen hundred and fifty-four, three thousand two hundred and ten dollars.

For contingent expenses, two hundred dollars.

AN ACT making appropriations for certain civil expenses, &c.—March 3, 1857.

For drawings to illustrate the report of the Commissioner of Patents for the year 1857, six thousand dollars.†

For flooring the basement rooms in the old portion of the Patent Office building to make them fit for business purposes, painting the interior of said building, repairing roof, and for other incidental repairs, eight thousand dollars.

For preparing the saloon of the west wing of the Patent Office for the reception of models for patents, and for fitting up and furnishing the same with suitable cases, fifty thousand dollars.

* See section 7, page 36.

† See section 14, page 38.

AN ACT making appropriations for sundry civil expenses, &c.—June 12, 1858.

For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement of cuttings and seeds, sixty thousand dollars: *Provided*, That it shall be the duty of the Commissioner of Patents to submit to the Secretary of the Interior, at the commencement of each session of Congress, the invoices of seeds and cuttings purchased with the money hereby appropriated, and also a statement of expenses in procuring seeds, cuttings, and information.

For drawings to illustrate the mechanical report of the Commissioner of Patents for the year eighteen hundred and fifty-eight, six thousand dollars.*

AN ACT providing for keeping and distributing all public documents. —February 5, 1859.

* * * * *

SEC. 8. *And be it further enacted*, That all books, maps, charts, and other publications of every nature whatever heretofore deposited in the Department of State according to the laws regulating copyrights, together with all the records of the Department of State in regard to the same, shall be removed to, and be under the control of, the Department of the Interior, which is hereby charged with all the duties connected with the same, and with all matters pertaining to copyright, in the same manner and to the same extent that the Department of State is now charged with the same; and hereafter all such publications of every nature whatever shall, under present laws and regulations, be left with and kept by him.

AN ACT making appropriations for the legislative, &c., expenses. —March 3, 1859.

* * * * *

SEC. 4. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, directed to cause the annual report of the Commissioner of Patents on mechanics, hereafter to be made to the Senate and House of Representatives, to be prepared and submitted in such manner as that the plates and drawings necessary to illustrate each subject shall be inserted so as to comprise the entire report in one volume not to exceed eight hundred pages.

AN ACT making appropriations for sundry civil expenses, &c. —March 3, 1859.

For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement of cuttings and seeds, forty thousand dollars: *Provided*, That no part of this ap-

* See section 14, page 38.

appropriation shall be used or expended in defraying the expenses of any body of men or delegates assembled in Washington or elsewhere as an agricultural congress or advisory board on agriculture, convened under the orders or by authority of the Secretary of the Interior or any other person, under any name or for any pretended object whatever.

For making cases and fitting up rooms in the Patent Office building to receive copyright books, charts, and other copyright matter, and for transferring, arranging, and taking care of the same, thirty-six hundred dollars.

AN ACT making appropriations for sundry civil expenses, &c.—June 25, 1860.

SEC. 1. For drawings to illustrate the report of the Commissioner of Patents for the year eighteen hundred and sixty, six thousand dollars.*

For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement of cuttings and seeds, sixty thousand dollars: *Provided, however,* That in the expenditure of this appropriation, and especially in the selection of cuttings and seeds for distribution, due regard shall be had to the purposes of general cultivation, and the encouragement of the agricultural and rural interest of all parts of the United States: *Provided,* That no part of this amount shall be expended as a commission, exchange, gift, dividend, or loan, or as compensation for extra services to any clerk, messenger, watchman, or other person already receiving a salary or wages under the government of the United States, nor to any partner, employé or member of the family of any such clerk, messenger, watchman, or other person so employed by the United States as aforesaid; and should the provisions of this section be violated, or any such employé of the United States be detected or be known to sell, exchange, or otherwise dispose of any cutting, seed, or other property arising from this or any previous agricultural appropriation by Congress, every such clerk, messenger, watchman, or other person receiving a salary or wages, as aforesaid, shall be dismissed from office.

For expenses of receiving, arranging, and taking care of copyright books, charts, and other copyright matter, one thousand four hundred dollars.

* * * * *

SEC. 5. *And be it further enacted,* That the Commissioner of Patents is hereby authorized to pay those employed in the Patent Office from April first, eighteen hundred and fifty-five, until April first, eighteen hundred and sixty, as examiners and assistant examiners of patents at the rates fixed by law for these respective grades: *Provided,* That the same be paid out of the Patent Office fund, and that the compensation thus paid shall not exceed that received by those duly

* See section 14, page 38.

enrolled as examiners and assistant examiners of patents for the same period.

AN ACT to extend the right of appeal from the decisions of circuit courts to the Supreme Court of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from all judgments and decrees of any circuit court rendered in any action, suit, controversy, or case, at law or in equity, arising under any law of the United States granting or confirming to authors the exclusive right to their respective writings, or to inventors the exclusive right to their inventions or discoveries, a writ of error or appeal, as the case may require, shall lie, at the instance of either party, to the Supreme Court of the United States, in the same manner and under the same circumstances as is now provided by law in other judgments and decrees of such circuit courts, without regard to the sum or value in controversy in the action.

Approved February 18, 1861.

AN ACT in addition to "An act to promote the progress of the useful arts."—March 2, 1861.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any justice of the peace or other officer authorized by law to take depositions to be used in the courts of the United States, or in the State courts of any State where such officer shall reside; and in any contested case pending in the Patent Office it shall be lawful for the clerk of any court of the United States for any district or Territory, and he is hereby required, upon the application of any party to such contested case, or the agent or attorney of such party, to issue subpoenas for any witnesses residing or being within the said district or Territory, commanding such witnesses to appear and testify before any justice of the peace, or other officer as aforesaid, residing within the said district or Territory, at any time and place in the subpoena to be stated; and if any witness, after being duly served with such subpoena, shall refuse or neglect to appear, or, after appearing, shall refuse to testify, (not being privileged from giving testimony,) such refusal or neglect being proved to the satisfaction of any judge of the court whose clerk shall have issued such subpoena, said judge may thereupon proceed to enforce obedience to the process, or to punish the disobedience in like manner as any court of the United States may do in case of disobedience to process of *subpœna ad testificandum* issued by such court; and witnesses in such cases shall be allowed the same compensation as is allowed to witnesses attending the courts of the United States: *Provided,* That no witness shall be required to attend

at any place more than forty miles from the place where the subpoena shall be served upon him to give a deposition under this law: *Provided, also,* That no witness shall be deemed guilty of contempt for refusing to disclose any secret invention made or owned by him: *And provided further,* That no witness shall be deemed guilty of contempt for disobeying any subpoena directed to him by virtue of this act, unless his fees for going to, returning from, and one day's attendance at the place of examination shall be paid or tendered him at the time of the service of the subpoena.

SEC. 2. *And be it further enacted,* That, for the purpose of securing greater uniformity of action in the grant and refusal of letters patent, there shall be appointed by the President, by and with the advice and consent of the Senate, three examiners-in-chief, at an annual salary of three thousand dollars each, to be composed of persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the applicant for that purpose being filed, to revise and determine upon the validity of decisions made by examiners when adverse to the grant of letters patent; and also to revise and determine in like manner upon the validity of the decisions of examiners in interference cases, and when required by the Commissioner in application for the extension of patents, and to perform such other duties as may be assigned to them by the Commissioner; that from their decisions appeals may be taken to the Commissioner of Patents in person, upon payment of the fee hereinafter prescribed; that the said examiners-in-chief shall be governed in their action by the rules to be prescribed by the Commissioner of Patents.

SEC. 3. *And be it further enacted,* That no appeal shall be allowed to the examiners-in-chief from the decisions of the primary examiners, except in interference cases, until after the application shall have been twice rejected; and the second examination of the application by the primary examiner shall not be had until the applicant, in view of the references given on the first rejection, shall have renewed the oath of invention, as provided for in the seventh section of the act entitled "An act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July fourth, eighteen hundred and thirty-six. (Repealed.—See section 1, page 27.)

SEC. 4. *And be it further enacted,* That the salary of the Commissioner of Patents, from and after the passage of this act, shall be four thousand five hundred dollars per annum, and the salary of the chief clerk of the Patent Office shall be two thousand five hundred dollars, and the salary of the librarian of the Patent Office shall be eighteen hundred dollars.

SEC. 5. *And be it further enacted,* That the Commissioner of Patents is authorized to restore to the respective applicants, or, when not removed by them, to otherwise dispose of such of the models belonging to rejected applications as he shall not think necessary to be preserved. The same authority is also given in relation to all models accompanying applications for designs. He is further authorized to dispense in

future with models of designs when the design can be sufficiently represented by a drawing.

SEC. 6. *And be it further enacted*, That the tenth section of the act approved the third day of March, eighteen hundred and thirty-seven, authorizing the appointment of agents for the transportation of models and specimens to the Patent Office, is hereby repealed.

SEC. 7. *And be it further enacted*, That the Commissioner is further authorized, from time to time, to appoint, in the manner already provided for by law, such an additional number of principal examiners, first assistant examiners, and second assistant examiners, as may be required to transact the current business of the office with despatch, provided the whole number of additional examiners shall not exceed four of each class, and that the total annual expenses of the Patent Office shall not exceed the annual receipts.

SEC. 8. *And be it further enacted*, That the Commissioner may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed at the cost of the parties filing such papers; and for gross misconduct he may refuse to recognize any person as the patent agent, either generally, or in any particular case; but the reasons of the Commissioner for such refusal shall be duly recorded, and be subject to the approval of the President of the United States.

SEC. 9. *And be it further enacted*, That no money paid as a fee on any application for a patent after the passage of this act shall be withdrawn or refunded; nor shall the fee paid on filing a caveat be considered as part of the sum required to be paid on filing a subsequent application for a patent for the same invention.

That the three months' notice given to any caveator in pursuance of the requirements of the twelfth section of the act of July fourth, eighteen hundred and thirty-six, shall be computed from the day on which such notice is deposited in the post office at Washington, with the regular time for the transmission of the same added thereto, which time shall be indorsed on the notice; and that so much of the thirteenth section of the act of Congress, approved July fourth, eighteen hundred and thirty-six, as authorizes the annexing to letters patent of the description and specification of additional improvements, is hereby repealed, and in all cases where additional improvements would now be admissible independent patents must be applied for.

SEC. 10. *And be it further enacted*, That all laws now in force fixing the rates of the Patent Office fees to be paid, and discriminating between the inhabitants of the United States and those of other countries, which shall not discriminate against the inhabitants of the United States, are hereby repealed, and in their stead the following rates are established:

On filing each caveat, ten dollars.

On filing each original application for a patent, except for a design, fifteen dollars.

On issuing each original patent, twenty dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

On every application for the reissue of a patent, thirty dollars.

On every application for the extension of a patent, fifty dollars; and fifty dollars, in addition, on the granting of every extension.

On filing each disclaimer, ten dollars.

For certified copies of patents and other papers, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, and other papers, of three hundred words or under, one dollar.

For recording every assignment and other papers over three hundred and under one thousand words, two dollars.

For recording every assignment or other writing, if over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making the same.

SEC. 11. *And be it further enacted*, That any citizen or citizens, or alien or aliens, having resided one year in the United States, and taken the oath of his or their intention to become a citizen or citizens, who by his, her, or their own industry, genius, efforts, and expense, may have invented or produced any new and original design for a manufacture, whether of metal or other material or materials, and original design for a bust, statue, or bas-relief, or composition in alto or basso relieve, or any new and original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material, or any new and useful pattern, or print, or picture, to be either worked into or worked on, or printed or painted or cast, or otherwise fixed on any article of manufacture, or any new and original shape or configuration of any article of manufacture, not known or used by others before his, her, or their invention or production thereof, and prior to the time of his, her, or their application for a patent therefor, and who shall desire to obtain an exclusive property or right therein to make, use, and sell, and vend the same, or copies of the same, to others, by them to be made, used, and sold, may make application in writing to the Commissioner of Patents, expressing such desire; and the Commissioner, on due proceedings had, may grant a patent therefor, as in the case now of application for a patent, for the term of three and one-half years, or for the term of seven years, or for the term of fourteen years, as the said applicant may elect in his application: *Provided*, That the fee to be paid in such application shall be for the term of three years and six months, ten dollars; for seven years, fifteen dollars; and for fourteen years, thirty dollars: *And provided*, That the patentees of designs under this act shall be entitled to the extension of their respective patents, for the term of seven years from the day on which said patents shall expire, upon the same terms and restrictions as are now provided for the extension of letters patent.

SEC. 12. *And be it further enacted*, That all applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof they shall be regarded as abandoned by the parties thereto, unless it be shown, to the satisfaction of the Commissioner of Patents, that such delay was

unavoidable; and all applications now pending shall be treated as if filed after the passage of this act; and all applications for the extension of patents shall be filed at least ninety days before the expiration thereof, and notice of the day set for the hearing of the case shall be published, as now required by law, for at least sixty days.

SEC. 13. *And be it further enacted*, That in all cases where an article is made or vended by any person under the protection of letters patent, it shall be the duty of such person to give sufficient notice to the public that said article is so patented, either by fixing thereon the word patented, together with the day and year the patent was granted, or when, from the character of the article patented, that may be impracticable, by enveloping one or more of the said articles, and affixing a label to the package, or otherwise attaching thereto a label, on which the notice, with the date, is printed; on failure of which, in any suit for the infringement of letters patent by the party failing so to mark the article the right to which is infringed upon, no damage shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued after such notice to make or vend the article patented. And the sixth section of the act entitled "An act in addition to an act to promote the progress of the useful arts," and so forth, approved the twenty-ninth day of August, eighteen hundred and forty-two, be, and the same is hereby, repealed.

SEC. 14. *And be it further enacted*, That the Commissioner of Patents be, and he is hereby, authorized to print, or in his discretion to cause to be printed, ten copies of the description and claims of all patents which may hereafter be granted, and ten copies of the drawings of the same, when drawings shall accompany the patents: *Provided*, The cost of printing the text of said descriptions and claims shall not exceed, exclusive of stationery, the sum of two cents per hundred words for each of said copies, and the cost of the drawing shall not exceed fifty cents per copy. One copy of the above number shall be printed on parchment, to be affixed to the letters patent; the work shall be under the direction, and subject to the approval, of the Commissioner of Patents, and the expense of the said copies shall be paid for out of the patent fund.

SEC. 15. *And be it further enacted*, That printed copies of the letters patent of the United States, with the seal of the Patent Office affixed thereto, and certified and signed by the Commissioner of Patents, shall be legal evidence of the contents of said letters patent in all cases.

SEC. 16. *And be it further enacted*, That all patents hereafter granted shall remain in force for the term of seventeen years from the date of issue; and all extensions of such patents is hereby prohibited.

SEC. 17. *And be it further enacted*, That all acts and parts of acts heretofore passed, which are inconsistent with the provisions of this act, be, and the same are hereby, repealed.

Approved March 2, 1861.

AN ACT making appropriations for sundry civil expenses, &c., approved March 2, 1861.

For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement, propagation, and distribution of cuttings and seeds, sixty thousand dollars: *Provided, however,* That in the expenditure of this appropriation, and especially in the selection of cuttings and seeds for distribution, due regard shall be had to the purposes of general cultivation and the encouragement of the agricultural and rural interests of all parts of the United States.

For expense of receiving, arranging, and taking care of copyright books, charts, and other copyright matter, two thousand dollars; so much thereof as may be necessary to be applied to the deficiency in that fund for the present fiscal year.

AN ACT making supplementary appropriations for sundry civil expenses, approved July 16, 1862.

For the fund of the Patent Office, fifty thousand eight hundred and fifty-five dollars and forty-nine cents, to supply a deficiency existing under the act of March second, eighteen hundred and sixty-one, entitled "An act in addition to an act to promote the progress of the useful arts:" *Provided,* That the fourteenth section of the said [act] be, and the same is hereby, repealed.

AN ACT to amend an act entitled "An act to promote the progress of the useful arts."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of section seven of the act entitled "Act to promote the progress of the useful arts," approved July four, eighteen hundred and thirty-six, as requires a renewal of the oath be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted,* That, whereas the falling off of the revenue of the Patent Office required a reduction of the compensation of the examiners and clerks, or other employes in the office, after the thirty-first day of August, eighteen hundred and sixty-one, that the Commissioner of Patents be, and he is hereby, authorized, whenever the revenue of the office will justify him in so doing, to pay them such sums, in addition to what they shall already have received, as will make their compensation the same as it was at that time.

SEC. 3. *And be it further enacted,* That every patent shall be dated as of a day not later than six months after the time at which it was passed and allowed, and notice thereof sent to the applicant or his agent. And if the final fee for such patent be not paid within the said six months the patent shall be withheld, and the invention therein described shall become public property as against the applicant therefor: *Provided,* That, in all cases where patents have been allowed previous to the passage of this act, the said six months shall be reckoned from the date of such passage.

Approved March 3, 1863.

EXTRACT FROM SECTION 1.—Appropriation for sundry civil expenses, approved March 3, 1863.

For expenses of receiving, arranging, and taking care of copyright books, charts, and other copyright matter, one thousand eight hundred dollars.

For preparing illustrations and descriptions for report, five thousand dollars.

For finishing the saloon in the north wing of the Patent Office building, and for furnishing the same with suitable cases and accommodations for the reception and convenient exhibition of models, fifty thousand dollars.

For repairing and painting the saloon in the old portico of the Patent Office building, and for furnishing the same with suitable cases and accommodations for the [re]ception and convenient exhibition of models, twenty-five thousand dollars.

AN ACT amendatory of "An act to amend an act entitled 'An act to promote the progress of the useful arts,' approved March three, eighteen hundred and sixty-three."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person having an interest in an invention, whether as inventor or assignee, for which a patent was ordered to issue upon the payment of the final fee, as provided in section three of an act approved March three, eighteen hundred and sixty-three, but who has failed to make payment of the final fee, as provided in said act, shall have the right to make an application, for a patent for his invention the same as the case of an original application, provided such application be made within two years after the date of the allowance of the original application: *Provided,* That nothing herein shall be so construed as to hold responsible in damages any persons who have manufactured or used any article or thing for which a patent aforesaid was ordered to issue. This act shall apply to all cases now in the Patent Office, and also to such as shall hereafter be filed. And all acts or parts of acts inconsistent with this act are hereby repealed.

Approved March 3, 1865.

AN ACT in amendment of an act to promote the progress of the useful arts, and the acts in amendment of and in addition thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon appealing for the first time from the decision of the primary examiner to the examiners-in-chief in the Patent Office, the appellant shall pay a fee of ten dollars into the Patent Office to the credit of the patent fund; and no appeal from the primary examiner to the examiner-in-chief shall hereafter be allowed until the appellant shall pay said fee.

Approved June 27, 1866.

AN ACT to increase the force in the Patent Office.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Patents is authorized from time to time to appoint, in the manner already provided for by law, such an additional number of principal examiners, first assistant examiners, and second assistant examiners, as may be required to transact the current business of the office with despatch: *Provided,* That the whole number of such additional examiners shall not exceed four of each class, and that the total annual expense of the Patent Office shall not exceed its annual receipts.

Approved March 29, 1867.

○

US PATENT & TRADEMARK OFFICE



3 0402 00265 7254

